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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

MAY 15 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

COMMUNICATIONS ASSISTANCE)
FOR LAW ENFORCEMENT ACT)
_____)

CC Docket No. 97-213

REPLY COMMENTS

Pursuant to the Public Notice (DA 98-762), released April 20, 1998, Globalstar, L.P., hereby responds to the comments filed on May 8, 1998, regarding several requests for extension of the date for compliance with the capability requirements of the Communications Assistance for Law Enforcement Act (CALEA), 47 U.S.C. §§ 1001, et seq.¹ The commenting parties from various segments of the telecommunications industry are unanimous in pointing out that the equipment required for CALEA compliance will not be commercially available by the statutory deadline of October 25, 1998, and, therefore, pursuant to the express terms of CALEA, compliance with the capability requirements will not be

¹ See "Petition for Rulemaking under Sections 107 and 109 of the Communications Assistance for Law Enforcement Act," filed by the Center for Democracy and Technology; "Petition for Rulemaking" filed by the Telecommunications Industry Association; "Petition for Extension of Compliance Date" filed by AT&T Wireless Services, Inc., Lucent Technologies Inc. and Ericsson Inc.; "Joint Petition for Expedited Rulemaking" filed by the Department of Justice and Federal Bureau of Investigation.

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“reasonably achievable” as of that date.² Accordingly, these parties unanimously recommend that the Commission extend the current CALEA compliance date of October 25, 1998.

Globalstar is in the process of launching a 48-satellite, global satellite system that will provide Mobile Satellite Services (MSS), including voice and data, in the United States and throughout the world.³ As one of the first commercial, nongeostationary satellite systems, Globalstar incorporates state-of-the-art technology. However, the technology of the system remains under active development, and Globalstar anticipates introducing service capabilities over time.

Based on its business plan not to serve the public directly, Globalstar has been classified by the Commission as a non-common carrier.⁴ CALEA defines a “telecommunications carrier” subject to the requirements of the Act as “a person or entity engaged in the transmission or switching of wire or electronic communications as a common carrier for hire.”⁵ Therefore, the requirements of CALEA should not be applicable to Globalstar. Nevertheless, the applicability of capability requirements to satellite-based carriers has been raised in the pending

² See, e.g., Comments filed by: AirTouch Communications, Inc., at 24; BellSouth Corporation, at 6-7; Nextel Communications, Inc., at 2-4; Omnipoint Communications, Inc., at 3-4; SBC Communications, Inc., at 2; Sprint Spectrum, L.P.; Telecommunications Industry Association, at 10-13; United States Cellular Corporation, at 2-5; United States Telephone Association, at 3.

³ See Loral/Qualcomm Partnership, L.P., 10 FCC Rcd 2333 (Int’l Bur. 1995).

⁴ See id. at 2336.

⁵ CALEA § 102(8).

rulemaking proceeding for CALEA.⁶ Globalstar is filing these comments to emphasize the need for an extension if CALEA's requirements are applicable to satellite carriers.

The record overwhelmingly supports the conclusion that the technology necessary to meet the capability requirements of CALEA is not currently available for terrestrial wireline, terrestrial wireless and satellite carriers.⁷ The difficulty for satellite carriers in meeting the capability requirements is compounded by several factors:

- First, the Attorney General has explicitly not adopted capacity standards for satellite carriers, as required by Section 104 of CALEA.⁸ Any modifications to a satellite system undertaken to comply with the capability requirements may ultimately be insufficient to comply with currently unknown capacity requirements.
- Second, as a global satellite system, Globalstar must receive an authorization to provide MSS in each country which it serves. As a result, each licensing administration or governmental authority may impose conditions on the system which could have an impact on its operations. This aspect of providing service is unique to global satellite systems, and must be taken into account in developing any applicable CALEA compliance standards for such systems.
- Third, Globalstar represents a new form of telecommunications system which the FCC has acknowledged is designed "to provide not only a variety of new services to users in the United States, but to provide

⁶ See Communications Assistance for Law Enforcement Act (Notice of Proposed Rulemaking), FCC 97-356, ¶ 17 (released Oct. 10, 1997).

⁷ See AirTouch Comments, at 4-7; Telecommunications Industry Association Comments, at 7.

⁸ See CALEA § 104. On March 12, 1998, the FBI published capacity requirements for local exchange carriers and cellular and PCS services. 63 Fed. Reg. 12218 (Mar. 12, 1998). This announcement stated that capacity requirements for other types of carriers would not be published until a future date.

integrated communications services to all parts of the world, including those that are now grossly underserved.”⁹ Imposition of significant technical and economic burdens associated with CALEA’s capability and capacity requirements could delay or diminish the efficacy and/or availability of these new services, to the detriment of the public interest.

Therefore, for the reasons set forth in the petitions and comments, Globalstar supports the requests filed in this docket for a blanket extension of the CALEA compliance deadline, particularly as it may apply to satellite systems deemed telecommunications carriers under the Act.

DOJ and FBI contend that the Commission does not have authority to grant an industrywide extension of the compliance deadline.¹⁰ However, there is no dispute that the Commission may grant individual requests for extension when it determines that compliance is not “reasonably achievable through application of technology available within the compliance period.”¹¹ Therefore, the Commission should, at least, make the determination on the present record that compliance is not “reasonable achievable” for satellite services and announce an automatic grant of extension for all satellite carriers who request an extension of the compliance deadline pursuant to Section 107(c).

⁹ Amendment of the Commission’s Rules to Establish Rules and Policies Pertaining to a Mobile-Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands, 9 FCC Rcd 5936, 5939 (1994).

¹⁰ DOJ/FBI Comments, at 12-13.

¹¹ CALEA § 107(c); see DOJ/FBI Comments, at 8.

Although it supports the requests for extension of the CALEA deadline, Globalstar is committed to working with DOJ and FBI, as well as other law enforcement agencies, to ensure that its system reasonably accommodates law enforcement and privacy requirements. However, the record in this proceeding makes clear with respect to CALEA's capability requirements that, at this time, (a) the applicable requirements for satellite systems are unclear, (b) the technical standards for compliance are not established, and (c) the technology which may be necessary to provide certain capabilities is unavailable.

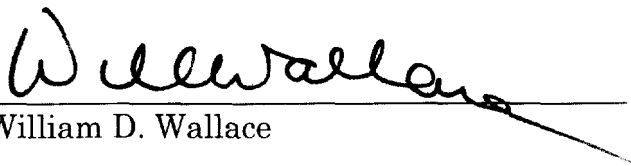
Accordingly, to the extent the October 25, 1998 deadline is applicable to satellite carriers, the Commission can and should extend that deadline for the compliance requirements in CALEA pending further efforts by Commission, the telecommunications industry and law enforcement officials to reach agreement on capability standards and any transition period for coming into compliance.

Respectfully submitted,

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Date: May 15, 1998

CERTIFICATE OF SERVICE

I, William D. Wallace, hereby certify that I have on this 15th day of May, 1998, caused true and correct copies of the foregoing Reply Comments to be served via hand delivery (indicated by an *) or first-class United States mail, postage prepaid, upon:

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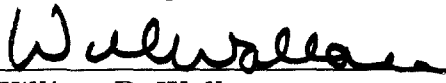
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